

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 22-9203 MEMF (KS) Date: February 21, 2023

Title *Clinton Brown v. Clark R. Taylor*

Present: The Honorable: Karen L. Stevenson, United States Magistrate Judge

Gay Roberson
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Petitioner: N/A

Attorneys Present for Respondent: N/A

**Proceedings: (IN CHAMBERS) ORDER DENYING PLAINTIFF’S APPLICATION FOR
DEFAULT JUDGMENT [DKT. NO. 14]**

On December 17, 2022, Plaintiff, proceeding *pro se*, initiated this action by filing a civil rights Complaint pursuant to 42 U.S.C. § 1983. (Dkt. No. 1.) Plaintiff sues Defendant for alleged wrongful acts concerning the denial of Plaintiff’s application for a solar facility by the Los Angeles County Department of Regional Planning. (*Id.* at 3-7.)

On December 20, 2022, Plaintiff filed a Request for Clerk to Issue Summons on Complaint. (Dkt. No. 16.) However, instead of waiting for the Clerk to issue the summons, Plaintiff apparently used his own copy of a summons form and served Defendant with that form and the Complaint. (Dkt. No. 22.) That summons form was defective under the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 4(a)(1)(F) & (G) (a summons must include the Clerk’s signature and court seal).

On January 24, 2023, the Court denied Plaintiff’s application to proceed *in forma pauperis*. (Dkt. Nos. 9, 23.)

On January 30, 2023, Defendant, represented by counsel, filed an Answer to the Complaint. (Dkt. No. 10.) On the same day, Plaintiff filed an Application for Default Judgment against Defendant for the failure to file a timely response to the Complaint. (Dkt. No. 14.)

On February 17, 2023, Plaintiff paid the filing fee in full. (Dkt. No. 24.)

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Based upon the foregoing, the Court **ORDERS AS FOLLOWS:**

- (1) Now that Plaintiff has paid the filing fee in full, the Clerk is directed to issue a summons as Plaintiff requested. (Dkt. No. 16.) **Once issued, Plaintiff is directed to complete the AMENDED summons in compliance with the Federal Rules of Civil Procedure and serve the Amended Summons on counsel for Defendant.** As Defendant has received sufficient notice of the Complaint, has not presented any argument or evidence suggesting that he was prejudiced by the defect in the summons, and has answered the Complaint, the Court finds no basis for dismissal based on the defective summons. *United Food & Commercial Workers Union, Locals 197, 373, 428, 588, 775, 839, 870, 1119, 1179 And 1532 Chartered by United Food & Commercial Workers International Union, Afl–Cio v. Alpha Beta Company*, 736 F.2d 1371, 1382 (9th Cir. 1984).
- (2) Plaintiff's Application for Default Judgment (dkt. no. 14) is **DENIED**. Defendant was not required to comply with an erroneous timeline triggered by Plaintiff's defective summons, and an answer has now been filed.
- (3) Further proceedings will be governed by the Initial Order in Civil Rights cases and Case Management and Scheduling Order in Civil Rights Cases issued concurrently with this Minute Order.

IT IS SO ORDERED.

Initials of Preparer

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